



**Arizona State Board of Pharmacy**  
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**THE ARIZONA STATE BOARD OF PHARMACY  
HELD A REGULAR MEETING JANUARY 23 AND JANUARY 24, 2008  
AT THE ARIZONA STATE BOARD OF PHARMACY OFFICE  
PHOENIX, AZ**

**MINUTES FOR REGULAR MEETING**

**AGENDA ITEM 1 – Call to Order – January 23, 2008**

President Van Hassel convened the meeting at 9:00 A.M. and welcomed the audience to the meeting.

The following Board Members were present: President Tom Van Hassel, Vice President Zina Berry, Chuck Dutcher, Steven Haiber, Louanne Honeyestewa, Dennis McAllister, Paul Sypherd, and Ridge Smidt. The following staff members were present: Compliance Officers Rich Cieslinski, Larry Dick, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell.

Ms. Frush explained that law continuing education would be offered for attendance at the meeting.

**AGENDA ITEM 2– Oath of Office – New Board Member**

President Van Hassel stated that the Governor has appointed Ms. Joanne Galindo as the new Public Board Member. Ms. Galindo was unable to attend the meeting due to illness.

**AGENDA ITEM 3 – Declaration of Conflicts of Interest**

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Schedule E, Complaint #3461

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 25, Schedule I, Motions to Deem for Jose Perez and Julia Dinovo.

Due to a conflict of interest, Dr. Berry recused herself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Schedule E, Complaint #3428, Complaint #3446, Complaint #3448, Complaint #3463, Complaint #3464, Complaint #3465, Complaint #3475, Complaint #3476, and Complaint #3481.

#### **AGENDA ITEM 4 – Approval of Minutes**

Following a review of the minutes and an opportunity for questions and **on motion by Mr. Haiber and Dr. Berry**, the minutes of the Regular Meeting held on November 14 and 15, 2007 were unanimously approved by the Board Members.

#### **AGENDA ITEM 5 - Nomination and Election of Officers**

President Van Hassel opened the nominations for President.

Mr. McAllister nominated Mr. Van Hassel for President. The nomination was seconded by Dr. Smidt.

Mr. Dutcher nominated Dr. Berry for President. The nomination was seconded by Mr. Haiber.

Ms. Campbell informed the Board that they would need to vote on the second nomination, since it supercedes the first nomination.

**On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved Dr. Berry as President of the Board. A roll call vote was taken. ( Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Haiber – aye, Dr. Sypherd –aye, Mr. McAllister – aye, Mr. Dutcher – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

President Van Hassel opened the nominations for Vice President

Mr. Haiber nominated Dr. Smidt for Vice President. The nomination was seconded by Dr. Sypherd.

Dr. Smidt declined the nomination and the nomination was withdrawn.

Mr. Van Hassel nominated Mr. McAllister for Vice President. The nomination was seconded by Mr. Haiber.

**On motion by Mr. Van Hassel and Mr. Haiber**, the Board unanimously approved Mr. McAllister as Vice President of the Board. A roll call vote was taken. ( Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Haiber – aye, Dr. Sypherd –aye, Mr. McAllister – aye, Mr. Dutcher – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

**On motion by Dr. Smidt and Dr. Berry**, the Board unanimously agreed to select Mr. Wand as the Executive Director.

### **AGENDA ITEM 6 – Permits and Licenses**

President Van Hassel stated that all permits were in order for resident pharmacies and representatives were present to answer questions from Board members.

#### **Qol Meds**

Larry Hart, Director of Pharmacy Operations for Qol Meds was present to answer Board Member's questions.

President Van Hassel opened the discussion by asking Mr. Hart to discuss the company's new proposed pharmacy.

Mr. Hart stated that the pharmacy would be located in Yuma. The pharmacy would be renting space from the Excel Group which is a community mental health facility. Mr. Hart stated that the pharmacy would be a retail pharmacy and has rented approximately 400 square feet for the pharmacy.

Mr. Van Hassel asked Mr. Hart if they have hired a pharmacist. Mr. Hart stated that they have just hired a pharmacist.

Dr. Smidt asked Mr. Hart why one of the owners was listed as an estate. Mr. Hart stated that the owner listed had passed away this fall and they are in the process of having the shares converted to his wife's name.

Mr. Hart stated that the company has 12 pharmacies and has clinic pharmacies in 7 states.

Mr. Van Hassel asked if the pharmacy would only service patients receiving care at the Excel Clinic. Mr. Hart stated that anyone could use the pharmacy.

Dr. Smidt asked how many prescriptions they plan to dispense at the pharmacy. Mr. Hart stated that initially they would probably dispense about 10 prescriptions a day and increase upward to about 125 prescriptions daily.

Dr. Smidt asked if they would be processing any mail order or internet generated prescriptions. Mr. Hart replied no.

Mr. Wand stated that the pharmacy is just about 400 square feet and would only allow three individuals to work in the pharmacy. Mr. Wand asked Mr. Hart if this would present a problem. Mr. Hart replied no.

Mr. Van Hassel thanked Mr. Hart for appearing and answering Board Member's questions.

## **Haven Behavioral Senior Care of Phoenix**

Shane Watts, Regional Pharmacy Manager for Pharmacare Services, and Nancy Stokes, Vice President of Clinical Services for Haven Behavioral were present to answer Board Member's questions.

President Van Hassel opened the discussion by asking the Board Members if they had any questions for the applicants.

Mr. Dutcher asked about the after hours contact with the pharmacist. Mr. Watts stated that the pharmacist could be reached by cell phone or pager.

Mr. Wand asked Mr. Watts how new orders would be verified after hours. Mr. Watts stated that the pharmacist would be on site for about three hours daily and could be reached by phone after hours. Mr. Watts stated that initially they would probably only have 6 to 10 patients

Mr. Wand asked if there would be emergency boxes. Mr. Watts stated that if the need arises there would be emergency boxes.

Mr. Van Hassel asked if the facility would be licensed as a hospital. Ms. Stokes stated that the facility has applied for licensure as a hospital and anticipate opening on June 16, 2008.

Mr. Van Hassel asked what would happen if they do not get approved by DHS as a hospital. Mr. Watts stated that the pharmacy would not open.

Mr. Wand stated that the required space for a hospital pharmacy is 500 square feet and they are asking for a waiver because the pharmacy would not be preparing IV solutions, and there would be no emergency room. Mr. Wand also noted that they stated that the hospital would have a maximum of 30 beds. Mr. Wand stated that the Board could approve a waiver for the number of hours a pharmacist is present and the size of the pharmacy. Mr. Wand stated that the applicants could be asked to return to the Board if the number of beds or hours change.

Mr. Van Hassel asked Mr. Watts if they have developed their policies and procedures. Mr. Watts stated that Pharmacare Services is a hospital management company and they have a complete set of policies and procedures that they tweak for each site. Mr. Watts stated that they also have a Quality Assurance Program.

**On motion by Mr. McAllister and Mr. Dutcher,** the Board unanimously approved the waivers for space and service hours as requested by Haven Behavioral with the stipulation that if there are service levels change from behavioral patients only to other

patient classifications or their census exceeds 50 they would return to the Board for a review of the waiver.

At the conclusion of questions from the Board Members and **on motion by Dr. Berry and Mr. Dutcher**, the Board unanimously approved the resident permits listed below. All approvals are subject to final inspection by a Board Compliance Officer where appropriate.

**RESIDENT (In Arizona)**

<b>Pharmacy</b>	<b>Location</b>	<b>Owner</b>
Wal-Mart Supercenter Pharmacy #10-3896	21655 N. Lake Pleasant Parkway, Peoria, AZ 85383	Wal-Mart Stores, Inc.
QoL meds	3250 E. 40 <sup>th</sup> St., Yuma, AZ 85365	Specialized Pharmaceuticals, Inc.
Wal-Mart Supercenter Pharmacy #10-4337	1612 North Main St., San Luis, AZ 85349	Wal-Mart Stores, Inc.
Wal-Mart Supercenter Pharmacy #10-4451	21055 S. Rittenhouse Dr., Queen Creek, AZ 85242	Wal-Mart Stores, Inc.
Wal-Mart Supercenter Pharmacy #10-4293	2435 E. Baseline Rd., Phoenix, AZ 85042	Wal-Mart Stores, Inc.
CVS/Pharmacy #7022	75 N. Lake Havasu Ave., Lake Havasu City, AZ 86403	Arizona CVS Stores, LLC
Windhaven Psychiatric Hospital Pharmacy	3347 Windsong Dr., Prescott Valley, AZ	West Yavapi Guidance Center
Target Store T- 2368	3699 Highway 95, Bullhead City, AZ 86442	Target Corporation
Target Store T-2365	21398 S. Ellsworth Loop Rd., Queen Creek, AZ 85242	Target Corporation
CVS/Pharmacy #1719	7587 S. Power Rd., Queen Creek, AZ 85242	German Dobson CVS LLC
CareScripts LLC	1155 W. Rio Salado Parkway #110, Tempe, AZ 85281	CareScripts
Haven Behavioral Senior Care of Phoenix	1201 S. 7 <sup>th</sup> Ave, Suite 200, Phoenix, AZ 85007	Haven Behavioral Healthcare

## Non-Resident Permits

At the conclusion of questions from the Board Members and **on motion by Dr. Berry and Mr. Haiber**, the Board unanimously approved the non-resident permits listed below.

### NON-RESIDENT (Out of State)

Pharmacy	Location	Owner
Biofusion Holdings, Inc.	19110 Van Ness Ave., Torrance, CA 90501	Biofusion Holdings, Inc.
Heartland Home Infusions	500 E. Ogden Ave., Suite D, Hinsdale, IL 60521	Heartland Home Infusions
PrescribIT	3600 Enterprise Way, Miramar, FL 33025	Humana Pharmacy, Inc.
Family Drugstore	154 NW 16 <sup>th</sup> St., Boca Raton, FL 33432	Family Drugstore, Inc
PharMEDium Services, LLC	12620 W. Airport Blvd., Suite 130, Sugarland, TX 77478	PharMEDium Services, LLC
New England Mail Order Pharmacy	111 Maple St., Middlebury, VT 05753	Porter Health Systems, Inc.
Heartland Home Health Care and Hospice	1752 Terrace Dr., Roseville, MN 55113 (O)	In Home Health, LLC
Biomed Pharmaceuticals	950 Calcon Hook Rd, Suite 15, Sharon Hill, PA 19079 (O)	Biomed PA, Inc.
Advanced Pharma, Inc.	9265 Kirby Dr., Houston, TX 77054	Claudette Nouri
Premier Kids Care, Inc.	3868-A Sheridan St., Hollywood, FL 33021.	Premier Kids Care, Inc.

(O) = Ownership Change

## Wholesaler Permits

President Van Hassel stated that all permits were in order for resident wholesalers and representatives were present to answer questions from Board members.

## SleepMed Therapies

Kathy Cocca, Wholesale Manager and Joy Ladd, Respiratory Therapist, were present to answer questions for Board Members.

President Van Hassel opened the discussion by asking the representatives to discuss their business.

Ms. Cocca stated that they are a Durable Medical Equipment Company and they are applying for a wholesale permit in order to distribute CPAP and Bi-PAP machines. Ms. Cocca stated that these two items are prescription devices.

Mr. Wand stated that since Arizona does not exempt these prescription devices that they must have a permit. Mr. Wand stated that the Board could place this item on a future agenda to discuss possible statute changes.

**On motion by Dr. Berry and Mr. Dutcher**, the Board unanimously approved the resident wholesale permits listed below. All permits are subject to final inspection by a Board Compliance Officer where appropriate.

WHOLESALER	LOCATION	OWNER
Reckitt Benckiser	9704 W. Roosevelt St., Tolleson, AZ 85393	Reckitt Benckiser, Inc.
SleepMed Therapies	3811 E. Bell Rd., Suite 202, Phoenix, AZ 85032	SleepMed Therapies, Inc.

### **Pharmacists, Interns, Pharmacy Technicians, and Pharmacy Technician Trainees**

President Van Hassel stated that all license requests and applications were in order.

**On motion by Mr. Dutcher and Dr. Berry**, the Board unanimously approved the Pharmacists licenses listed on the attachments.

**On motion by Dr. Berry and Mr. Haiber**, the Board unanimously approved the Intern licenses listed on the attachments.

**On motion by Mr. Dutcher and Dr. Berry**, the Board unanimously approved the Pharmacy Technician and Pharmacy Technician Trainee applications listed on the attachments.

## **AGENDA ITEM 7 – Special Requests**

### **#1 Charles Allen**

**Charles Allen** appeared on his own behalf to request that the Board allow him to take the NAPLEX exam for the fourth time.

President Van Hassel opened the discussion by asking Mr. Allen to describe the nature of his request.

Mr. Allen stated that he is requesting to take the NAPLEX exam an additional time. Mr. Allen stated that he has taken the exam three times and has not passed the exam.

Mr. Van Hassel asked Mr. Allen about his low scores on the previous exams. Mr. Allen stated that he has trouble with multiple choice exams. Mr. Allen stated that he started the Morris-Cody review course about three weeks ago.

Mr. McAllister asked Mr. Allen if he is currently working as an intern. Mr. Allen stated that he has completed over 1,500 hours of internship and has quit working at this time to study.

Mr. Haiber asked Mr. Allen when he graduated from Pharmacy School. Mr. Allen stated that he graduated in 1977.

Mr. Haiber asked Mr. Allen if he was ever licensed as a pharmacist. Mr. Allen stated that he was never licensed as a pharmacist because his father died and he had to run the family business to help support his mother and sisters.

Mr. Haiber asked Mr. Allen if he passed the law exam. Mr. Allen replied yes.

Mr. Van Hassel stated that he felt that Mr. Allen may not gain the knowledge he needs by reading books.

Mr. McAllister stated that he felt that Mr. Allen did not stay current after finishing his pharmacy degree. Mr. McAllister stated that being an intern is different then being a pharmacist. Mr. McAllister stated that he does not believe reading the books would help Mr. Allen pass the test.

Dr. Smidt asked Mr. Allen if he had taken any other courses in preparing for the exam. Mr. Allen stated that he took a review course online and a three day review at Midwestern.

**On motion by Mr. McAllister and Mr. Haiber**, the Board unanimously denied Mr. Allen's request to take the NAPLEX exam for a fourth time. The Board recommended that Mr. Allen return to school for additional training and then appear in front of the Board to ask to take the NAPLEX exam an additional time.

A roll call vote was taken. ( Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Haiber – aye, Dr. Sypherd –aye, Mr. McAllister – aye, Mr. Dutcher – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

## **#2      Josefina Aldecoa**

Ms. Aldecoa did not come forth when her name was called to speak with the Board Members.

## **#3      Kristine Wells**

Ms. Wells canceled her request to appear at the Board Meeting.

## **#4      Rob Hahn**

**Rob Hahn** appeared on his own behalf to request that the Board terminate the probation of his pharmacist license per Board Order 05-0033-PHR (A). Roger Morris was present as Legal Counsel for Mr. Hahn.

President Van Hassel opened the discussion by asking Mr. Hahn to describe the nature of his request.



Mr. Hahn stated that he is asking the Board to terminate his probation because he has met all the requirements of his consent order.

Mr. Dutcher asked about the date terminating Mr. Hahn's probation.

The Board was told that the Board could end the probation on the date specified in the order.

**On motion by Mr. Haiber and Mr. Dutcher**, the Board unanimously agreed to approve the request by Mr. Hahn to terminate the probation on his license imposed by Board Order 05-0033-PHR (A). The termination would be effective on January 27, 2008.

## **#5 Richard Pillon**

**Richard Pillon** appeared on his own behalf to request that the Board terminate the probation of his pharmacist license per Board Order 07-0012-PHR.

President Van Hassel opened the discussion by asking Mr. Pillon when his probation ends. Mr. Pillon stated that he believes that his probation lasts until September. Mr. Wand stated that Mr. Pillon's probation would end in November of this year.

Mr. Haiber asked Mr. Pillon what has changed since his last appearance. Mr. Pillon stated that his mortgage is in default and the bank would work with him if he can show proof that he is able to increase his present income.

Dr. Smidt asked Mr. Pillon if he is asking for his probation to be lifted early. Mr. Pillon stated that he is asking that the Board make his probation as unencumbered as possible. Mr. Pillon stated that because he must work with another pharmacist and cannot perform the final check on a prescription he cannot find work. Mr. Pillon stated that he is currently working in Ajo and his pay is low. Mr. Pillon stated that he has not been able to find another job because of those two stipulations in his consent agreement.

Mr. Haiber asked Mr. Pillon if he would still work in Ajo if the probation was lifted because that would leave the pharmacy with out another pharmacist. Mr. Pillon stated that he did not know.

Mr. Wand stated that the Board Members must keep the two cases separate.

Mr. McAllister asked Mr. Pillon about his errors. Mr. Pillon stated that he has not had any errors since he saw the eye doctor and got new glasses.

Mr. McAllister told Mr. Pillon if he made any further errors there could be serious consequences.

Ms. Campbell explained that the Board could amend the consent order and remove conditions 1 and 2. Ms. Campbell stated that the addendum would not be in effect until the Board and Mr. Pillon signed the addendum. Ms. Campbell stated that the Board could authorize the Executive Director to sign on their behalf.

**On motion by Dr. Smidt and Mr. McAllister**, the Board unanimously agreed to amend Mr. Pillon's consent agreement to remove conditions 1 and 2. The Board authorized Mr. Wand to sign the consent on their behalf after Mr. Pillon signs the addendum.

A roll call vote was taken. ( Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Haiber – aye, Dr. Sypherd –aye, Mr. McAllister – aye, Mr. Dutcher – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

#### **#6 Alan Isaacson**

**Alan Isaacson** appeared on his own behalf to request that the Board terminate the probation of his pharmacist license per Board Order 07-0057-PHR.

President Van Hassel opened the discussion by asking Mr. Isaacson about the nature of his request. Mr. Isaacson stated that he asking the Board to terminate his probation.

Mr. Van Hassel asked Mr. Isaacson if he has completed all his requirements. Mr. Isaacson replied yes.

Mr. Dutcher asked if Mr. Isaacson had completed the CE requirements. Ms. Frush replied that Mr. Isaacson has completed all the CE requirements.

Mr. Haiber stated that Mr. Isaacson has not yet met the date requirement. Mr. Haiber stated that 6 months would be on January 31, 2008.

Mr. McAllister stated that the respondents are at the mercy of the Board Meeting calendar.

**On motion by Mr. Dutcher and Dr. Berry**, the Board unanimously agreed to approve the request by Mr. Isaacson to terminate the probation on his license imposed by Board Order 07-0057-PHR. The termination would be effective on January 1, 2008.

#### **#7 Chetan Khatri**

**Chetan Khatri** appeared on his own behalf to request that the Board allow him to take the MPJE exam for the fourth time.

President Van Hassel opened the discussion by asking Mr. Khatri to describe the nature of his request.

Mr. Khatri stated that he is requesting to take the MPJE exam again. Mr. Khatri stated that he has taken the exam three times and the last time he received a score of 74.

Dr. Berry asked Mr. Khatri if he is taking a review course at this time. Mr. Khatri stated that he is studying the Federal law, but is not taking a review course.

Dr. Berry asked Mr. Khatri if he has read any review books. Mr. Khatri stated that he has obtained a copy of the Kaplan review book for the Federal Law.

Mr. Van Hassel asked Mr. Khatri about his schooling and work experience. Mr. Khatri stated that he went to pharmacy school in India and he has worked as an Intern at Walgreens for the last year. Mr. Khatri stated that he has passed the NAPLEX exam.

**On motion by Mr. McAllister and Mr. Dutcher**, the Board unanimously approved the request by Mr. Khatri to take the MPJE exam for the fourth time with the stipulation that if he does not pass the exam that he must provide proof to the Board that he has completed a review course prior to petitioning the Board to take the exam an additional time.

## **AGENDA ITEM 8 – License Applications Requiring Board Review**

### **#1 John Baque**

**John Baque** appeared on his own behalf to request to proceed with reciprocity.

President Van Hassel opened the discussion by asking Mr. Baque why he was appearing in front of the Board.

Mr. Baque stated that he is requesting permission to proceed with reciprocity. Mr. Baque stated that he was disciplined by the Louisiana Board of Pharmacy.

Mr. Baque explained that he was employed at a pharmacy in Louisiana in 2002. He was the Pharmacist In Charge. Mr. Baque stated that as Pharmacist In Charge he was supervising a pharmacist whose license was suspended because he was impaired. Mr. Baque stated that the other pharmacist was the owner of the store. Mr. Baque stated that the other pharmacist was arrested for having Lortabs in his possession. Mr. Baque explained that as Pharmacist In Charge the Louisiana Board held him accountable for the misconduct of the other pharmacist.

Mr. Van Hassel asked Mr. Baque if he was aware of the removal of the drugs. Mr. Baque replied no.

Mr. Dutcher asked if the other pharmacist was allowed to work in the pharmacy.

Mr. Baque stated that the other pharmacist was allowed to work in the front of the store where he had his DME business. Mr. Baque stated that he had the locks changed on the pharmacy entrances twice. Mr. Baque stated that the other pharmacist stole the drugs from prescriptions that were already filled and were waiting in the alpha bins for pickup.

Mr. Dutcher asked Mr. Baque if there was any way for him to argue against the censure since it was the other pharmacist that committed the acts.

Mr. Baque stated that he was advised by his attorney to accept the consent agreement.

Mr. Wand asked Mr. Baque about the fraudulent prescriptions.

Mr. Baque stated that the other pharmacist had access to a computer on the front counter. Mr. Baque stated that he was not aware that the other pharmacist had access to the pharmacy records and the other pharmacist created fraudulent prescriptions by adding refills to existing prescriptions.

Mr. McAllister asked Mr. Baque if his license is currently in good standing. Mr. Baque replied yes.

**On motion by Mr. McAllister and Dr. Smidt**, the Board unanimously approved the request by Mr. Baque to proceed with reciprocity.

## **#2 Paul Balikian**

**Paul Balikian** appeared on his own behalf to request that the Board reinstate his delinquent pharmacist license. Mr. Balikian last renewed his license in 1971.

President Van Hassel opened the discussion by asking Mr. Balikian to discuss the nature of his request.

Mr. Balikian stated that he would like to reactivate his pharmacist license.

Mr. Van Hassel asked Mr. Balikian when he last worked as a pharmacist.

Mr. Balikian stated that he has never worked as a pharmacist in Arizona. Mr. Balikian stated that he was a physician and recently sold his practice and would like to work as a pharmacist.

Mr. Van Hassel asked Mr. Balikian if he has taken any CE courses. Mr. Balikian stated that he has taken CME courses and pharmacists are allowed to take the courses that he attended.

Mr. Van Hassel asked Mr. Balikian when was the last time he worked as a pharmacist.

Mr. Balikian stated that he last worked as a pharmacist back in 1967 while he attended Medical School. Mr. Balikian stated that he worked as a pharmacist in the hospital.

Mr. Dutcher asked Mr. Balikian if that means that he has not been behind a pharmacy counter in over 30 years

Mr. Balikian stated that he has dispensed in his office and quit dispensing last year after he sold his practice.

Mr. Dutcher asked Mr. Balikian if he has been behind a pharmacy counter recently to observe the practice of pharmacy. Mr. Balikian replied no.

Dr. Sypherd asked Mr. Balikian to address his Degree of Censure from the Osteopathic Board.

Mr. Balikian stated that he was dispensing medications at his office. Mr. Balikian stated that one of his patients asked him for some Bextra tablets. Mr. Balikian stated that he had some Bextra in the office that he had bought for his wife. Mr. Balikian stated that he gave the Bextra to the patient. Mr. Balikian stated that the patient tried the medication and asked him to obtain more Bextra for her. Mr. Balikian stated that he charged the patient \$30 which represented her copay and a dispensing fee. Mr. Balikian stated that the patient filed a complaint because she felt that he should not have charged her for the medication.

Mr. Wand stated that as he was reviewing the Censure he noted that the reason the Osteopathic Board issued the Censure was because Mr. Balikian was dispensing without being registered as a dispensing physician with the Osteopathic Board.

Mr. Balikian stated that he had let his dispensing registration lapse, but he then renewed his dispensing registration.

Mr. McAllister asked Mr. Balikian about the open investigation against him at the Osteopathic Board.

Mr. Balikian stated the he is not sure what the investigation is about at the Osteopathic Board. Mr. Balikian stated that he sold his practice to a Russian doctor and later came to find out that she was not licensed here and was using his name to write prescriptions. Mr. Balikian stated that his lawyer sent her a letter twice indicating that she was not allowed to use his name to write prescriptions.

Mr. Van Hassel asked Mr. Balikian if he thought that he could pass the exam today.

Mr. Balikian stated that he would need to brush up on the law.

Dr. Berry stated that she felt Mr. Balikian would need to take the NAPLEX exam, MPJE exam and complete intern hours prior to taking either exam.

Ms. Campbell stated that the Board should obtain a letter from the Osteopathic Board stating that Mr. Balikian's Osteopathic license is in good standing prior to issuing an intern license.

Mr. McAllister recommended that Mr. Balikian complete 1,500 hours of internship

Ms. Campbell stated that the Board could approve the Executive Director to approve the issuance of an intern license upon receiving a letter from the Osteopathic Board that Mr. Balikian's license is in good standing and there are no open complaints against Mr. Balikian's license at the Osteopathic Board.

**On motion by Dr. Berry and Mr. McAllister**, the Board authorized the Executive Director to issue an Intern license to Mr. Balikian, pending confirmation from the Osteopathic Board that Mr. Balikian's license is in good standing and there are no open complaints against Mr. Balikian's license at the Osteopathic Board. After receiving his Intern license, Mr. Balikian must complete 1,500 hours of internship prior to taking the NAPLEX and MPJE exams. After completing all the requirements, Mr. Balikian's pharmacist license would be reactivated.

### **#3 Jon Bach**

**Jon Bach** appeared on his own behalf to request that his revoked pharmacist license be reinstated. Lisa Yates and Jim Corrington from the PAPA program were also present.

President Van Hassel opened the discussion by asking Mr. Bach to describe the nature of his request.

Mr. Bach stated that he would like to have his pharmacist license reinstated.

Mr. Van Hassel asked Mr. Bach to recap why the Board revoked his license. Mr. Bach stated that he was having spiritual, emotional, and physical problems at the time. Mr. Bach stated that he surrendered his license in January of last year and had signed a new PAPA contract in December of 2006.

Mr. Van Hassel asked Ms. Yates if Mr. Bach is compliant with his PAPA contract. Ms. Yates stated that Mr. Bach has been compliant with his contract. Ms. Yates stated that from his counseling reports Mr. Bach is doing more than is required by his contract.

Mr. Van Hassel asked Mr. Corrington about Mr. Bach's progress.

Mr. Corrington stated that he is a counselor with the PAPA program. Mr. Corrington stated that he has been in the addiction field for 22 years. Mr. Corrington stated that he sees Mr. Bach weekly in group counseling and twice monthly for private sessions. Mr. Corrington stated that he looks for specific behaviors to change and there needs to be lots of changes. Mr. Corrington stated that Mr. Bach has exceeded his expectations. Mr. Corrington stated that Mr. Bach has accepted his diagnosis and treatment. Mr. Corrington stated that Mr. Bach attends 8 to 10 meetings a week and is only required to attend 3 meetings. Mr. Corrington stated that Mr. Bach helps support others that are new to the program and helps distribute literature to others. Mr. Corrington stated that Mr. Bach is starting a new 12 step meeting for healthcare providers. Mr. Corrington stated

that he has no hesitancy in recommending that the Board should reinstate Mr. Bach's pharmacist license.

Mr. Van Hassel asked Mr. Bach what he has been doing for the last year. Mr. Bach stated that he has not been working, but has been devoting his time to his recovery.

Mr. Van Hassel asked Ms. Yates if Mr. Bach has paid all his fees. Ms. Yates replied yes.

Mr. Van Hassel asked Mr. Bach if he feels that he is ready to return to work. Mr. Bach replied yes. Mr. Bach stated that today he is in recovery and other times he just believed that he was doing recovery.

Mr. Dutcher asked Mr. Bach to give the Board confidence that the Board should reinstate his license. Mr. Bach stated that he is not willing to give up his sobriety.

Mr. Dutcher asked Mr. Bach what started his downward spiral. Mr. Bach stated that after he finished his last PAPA contract in 2002 he did not continue his recovery program. Mr. Bach stated that he had no accountability to anyone. Mr. Bach stated that his wife died and he had emotional issues related to her death. Mr. Bach stated that he has been fortunate to find NA and that is where he is doing his recovery.

Dr. Smidt asked Mr. Corrington if a participant has access to medications are they more likely to relapse.

Mr. Corrington stated that accessibility is a factor. Mr. Corrington stated that one has to take personal responsibility for their actions. Mr. Corrington stated that if the individual feels cravings at work then they should get a job where there is no access to medications. Mr. Corrington stated that Mr. Bach will know when he returns to practice.

Dr. Smidt stated that he believes that Mr. Bach has issues when he drifts from his recovery program.

Ms. Yates stated that the Board could require Mr. Bach to participate in an extended PAPA program.

Mr. Corrington stated that there is a national trend to extend monitoring programs.

Mr. Van Hassel stated that statistics indicate that relapses occur at one year and four years and asked Mr. Bach about a potential relapse if he returns to work.

Mr. Bach stated that he will fit work into his recovery program.

Mr. Corrington stated that Mr. Bach has to make his recovery a priority.

Dr. Smidt asked Mr. Bach how long he practiced under impairment. Mr. Bach replied that he worked impaired on and off for about a year.

Mr. Van Hassel asked Mr. Bach when he first appeared before the Board due to impairment issues. Mr. Bach replied 1990.

Mr. McAllister stated that Mr. Bach's impairment did not cause errors or patient harm and were personal issues.

Mr. Van Hassel asked Mr. Bach if his employment was terminated at a hospital for errors.

Mr. Bach stated that he took a job at Maryvale hospital. Mr. Bach stated that he was not a hospital pharmacist and was told upon accepting the job that he would be trained. Mr. Bach stated that he was given 6 nights of training from a newly licensed pharmacist who spent most of her time on the telephone with personal calls. Mr. Bach stated that he was left go. Mr. Bach stated that he was abstinent during his time at the hospital.

Dr. Berry asked Mr. Bach since 1990 how many times he has been in treatment programs Mr. Bach stated that he did one inpatient and 3 outpatient treatment programs.

Dr. Berry asked Mr. Bach what is the difference this time. Mr. Bach stated that he is now participating in NA and it works for him. Mr. Bach stated previously he thought he was doing recovery.

Mr. Corrington stated that something has to change in the individual's life. Mr. Corrington stated that Mr. Bach can identify with the NA program.

Ms. Yates stated that she can see a difference in Mr. Bach's progress this time. Ms. Yates stated that Mr. Bach is more accepting of his problem. Ms. Yates stated that they see people return to the PAPA program because they only do what they need to do to get through the program.

Dr. Smidt stated that stipulating a lifetime contract does not hurt anyone and offers Mr. Bach a degree of protection that he would not relapse if he follows the program.

Mr. Van Hassel asked Mr. Bach why he wants to be a pharmacist again. Mr. Bach stated that he enjoys his job and would like to return.

Dr. Sypherd made a motion to reinstate Mr. Bach's license with a continued PAPA contract for 5 years under probationary status. There was no second and the motion was withdrawn.

**On motion by Mr. Haiber and Mr. Dutcher,** the Board approved Mr. Bach's request to reinstate his license with a five year probationary period and a lifetime PAPA contract during the term of his licensure. Mr. Bach must sign and abide by the consent agreement.



A roll call vote was taken. ( Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Haiber – aye, Dr. Sypherd –aye, Mr. McAllister – nay, Mr. Dutcher – aye, Dr. Berry – nay, and Mr. Van Hassel – nay)

The motion carries.

### **AGENDA ITEM 9 – Overview of McKesson Patient Outreach Network Program**

Representatives from McKesson were not able to attend this meeting and asked to postpone their appearance until the March meeting.

### **AGENDA ITEM 10 – Reports**

#### **Executive Director Report**

##### **Budget Issues**

Mr. Wand opened the discussion by reviewing the financial reports with the Board Members.

Mr. Wand stated that he would be attending the joint appropriations committee meeting to answer questions concerning the sweeping of funds from the Pharmacy Fund Account to the State's General Fund to help cover the state's budget shortfall. Mr. Wand stated that they have proposed sweeping up to 25% of monies in the Pharmacy Fund.

Mr. Wand stated that they could also reduce the 2009 budgets which could be an issue for the Board.

##### **Legislative Issues**

Mr. Wand stated that House Bill 2020 that removes the requirement that a Pharmacist In Charge be present at a manufacturer and removes the posting of the wall certificate has been passed by both the Health and Rules Committees.

Mr. Wand stated that they did ask for one amendment to the bill. They wanted the bill amended to allow the public to review the renewal licenses. Mr. Wand stated that the necessary changes were made and submitted.

Mr. Wand stated that another issue affecting state health agencies is the consolidation of several agencies into one larger Board. Mr. Wand stated at this time the Board of Pharmacy is not affected by the consolidation process.

## **Staffing**

Mr. Wand stated that he placed an article in the recent newsletter stating that the Board would be hiring a new Compliance Officer to fill a recent vacancy. Mr. Wand stated that the Board has received several applications and will be interviewing applicants. Mr. Wand stated that the position may be hired either for Phoenix or Tucson.

## **Deputy Director Report**

Ms. Frush reviewed the Compliance Officers Activity Report for the months of November and December with the Board Members. Ms. Frush reviewed the Drug Inspectors Activity Report for the months of November and December with the Board Members.

Ms. Frush stated during the months of November and December 2007, the Compliance Staff issued letters for the following violations:

### **Controlled Substance Violations**

1. Controlled Substance Overage –4
2. Controlled Substance Shortage – 5

### **Documentation Violations**

1. Failure to Document Medical Conditions – 8
2. Failure to sign daily log - 1
3. Failure to document counseling - 3

### **Dispensing Violations**

1. Outdated Rx and OTC items in the pharmacy –2

### **Pharmacy Violations**

1. Wall certificates not posted – 1
2. Allowing technician to work with an expired license - 1

### **The following areas were noted on the inspection reports for improvement:**

1. Physician Assistants writing prescriptions for more than a 72 hour or 14 day supply for a CII and CIII
2. Documentation of Counseling

### **The following areas were noted on the inspection reports where pharmacists and technicians are meeting or exceeding standards:**

1. Filing of Invoices has improved
2. Technicians are being asked to sign appropriate paperwork

### **Areas outside the inspection reports that may be of interest:**

1. Nurse Practitioners are not restricted on the quantity they may prescribe for a controlled substance.

2. Change of employment or address must be reported to the Board within ten days

### **Pharmacist Assisting Pharmacists of Arizona (PAPA)**

Lisa Yates was present to represent the PAPA program. Ms. Yates stated that there are a total of forty (40) participants in the PAPA program. Since the last report on November 15, 2007 there has been three (3) new participant come into the program, there is one (1) pending signature of contract, and one participant has completed the program.

Ms. Yates stated that PAPA will be sponsoring a CE program on April 6, 2008 at the Sheraton Phoenix Airport Hotel. Ms. Yates stated that Kristen Polin will be presenting the “Latest Trends with Street Drugs and OTC Medications”. Ms. Yates stated that this is the same CE program that was presented at the AzPA Convention in Tucson last July.

The Board Members discussed possible concerns with Ms. Yates.

### **AzPA Report**

Mindy Rasmussen, Executive Director of the Arizona Pharmacy Alliance (AzPA), was present to update the Board concerning the activities of the Alliance.

Ms. Rasmussen reviewed the various academies of the Alliance and their upcoming events.

Ms. Rasmussen stated that the Alliance would be participating in Legislative Day on March 10, 2008 and plan to sponsor a CE seminar on that day. Ms. Rasmussen stated that they plan on offering the CE at the Board’s Meeting Room.

Ms. Rasmussen stated that the Alliance is watching one bill HB2581 which is the audit bill.

Ms. Rasmussen stated that prescriptions issued by Indian Health Services providers fall under the tamper resistant prescription pad requirements.

## **AGENDA ITEM 11– Conferences**

### **Complaint #3436**

The following individuals were present to answer questions from Board Members concerning a consumer complaint: Kimberly Ritschel (Pharmacist), Nancy Algeria (Pharmacy Technician), Jon Reitz (Pharmacy Supervisor), and Roger Morris (Legal Counsel for Walgreens).

Ms. Frush stated that Angelica Badillo (Pharmacy Technician) had notified her that she would not be able to attend the Board Meeting because she is 37 weeks pregnant and her doctor does not want her to travel to Phoenix. Ms. Badillo stated that she is willing to attend the next Board Meeting if the Board would like her to attend a meeting.

Mr. Morris stated that he would represent Ms. Badillo during this conference.

Compliance Officer Ed Hunter gave a brief overview. Mr. Hunter stated that the complainant stated that she had a prescription filled for her 8-year old daughter. The prescription was written for Cephalexin 250mg and was filled with Ciprofloxacin 250mg. The medication was given to the child and she developed an upset stomach. The doctor phoned the correct medication to another pharmacy. The pharmacy stated that the prescription became distorted when the Pharmacy Technician scanned the prescription into the computer. Another Pharmacy Technician misread the prescription information and entered the wrong medication because of the distortion. The same technician then filled that prescription as it was entered into the system. The pharmacist failed to catch the error at the final verification or at counseling.

President Van Hassel asked Ms. Algeria to address the complaint. Ms. Algeria stated that she did type in the drug and misread the prescription.

Mr. Van Hassel asked Ms. Ritschel to address the complaint. Ms. Ritschel stated that Mr. Hunter's account of the complaint is accurate. Ms. Ritschel stated that she is not sure how she made the error because she always checks the prescription for ages.

Mr. Dutcher asked Mr. Reitz if a DUR would be triggered if a prescription for Ciprofloxacin was entered for an 8-year old child. Mr. Reitz stated that a DUR would be triggered indicating that the drug was contraindicated in a child.

Mr. Dutcher asked where the DUR shows up on the computer screen. Mr. Reitz stated that the DUR would show up when the pharmacist verifies the data entry. Mr. Reitz stated that only a pharmacist can review the DUR screen.

Mr. Dutcher asked if the screen is a different color. Mr. Reitz replied no.

Mr. Haiber asked if the computer requires documentation of why the DUR was overridden. Mr. Reitz replied no but it does record who overrode the DUR.

Mr. Morris stated that it is important to note that the prescription was initially entered for the wrong patient. Mr. Morris stated that the prescription was originally entered under the mother's name because the prescription blank is confusing.

Ms. Ritschel stated that the patient told that technician at the register that the prescription was for her daughter and not for her.

Dr. Smidt asked Ms. Ritschel if the name was changed on the bottle. Ms. Ritschel stated that the technician corrected the error but she did not catch the error when she verified the prescription.

Mr. Dutcher asked Mr. Reitz what should occur when a prescription image is distorted. Mr. Reitz stated that if an image looks distorted the technician should rescan the prescription or send the hard copy to the pharmacist with the completed prescription vial.

Mr. McAllister stated that the error should have been caught when the patient was counseled. Mr. McAllister stated that it is inappropriate to give ciprofloxacin to a child. Mr. McAllister stated that the pharmacist did a bad job on counseling because when the mother said that the prescription was for her daughter the pharmacist should have realized the error.

Mr. Van Hassel asked Ms. Ritschel what changes she has made in her practice. Ms. Ritschel stated that she is a new pharmacist and was recently licensed in May. Ms. Ritschel stated that she should have caught the error and is relieved that the child was not injured. Ms. Ritschel stated that she has completed 10 CE units on medication errors. Ms. Ritschel stated that she has reviewed look alike and sound alike drugs. Ms. Ritschel stated that if a prescription image is distorted she asks the technician to rescan the prescription. Ms. Ritschel stated that she has the technicians write the date of birth on the prescriptions with a Sharpie at the top of the prescription. Ms. Ritschel stated that she looks at the prescription first during data verification and then looks at the prescription image again when she verifies the product. Ms. Ritschel stated that she also verifies the date of birth when counseling the patient.

**On motion by Mr. McAllister and Dr. Smidt**, the Board unanimously agreed to issue an advisory letter to the Pharmacist and both Technicians on counseling accuracy.

### **Complaint #3420**

The following individuals were present to answer questions from Board Members concerning a complaint: William Fleming (Vice President, Pharmacy and Clinical Integration), Tony Keller ( Chief Operating Officer), Scott Greenwell (Director of Professional Practice and Compliance), and Steven Lerch ( Pharmacist In Charge- Humana RightSource- Phoenix).

Ms. Frush gave a brief overview of the complaint. Ms. Frush stated that the Board received a complaint that was generated internally. Ms. Frush stated that the complaint contained several allegations. Ms. Frush stated that in reviewing the incidences that two occurred at the Phoenix Facility. In the first case, a customer service representative told the patient that they had received the correct medication when the prescription had actually been misfilled. The prescription was for Benicar/HCTZ and was filled with Benazapril. In the second case, a customer service representative told the patient that they had received the incorrect medication when the prescription had been filled correctly. The prescription was filled correctly for Ortho- Tri-Cyclen.

Ms. Frush stated that the complaint also included several incidences where customer service representatives enrolled patients in the Medicare program which does not violate Arizona law.

Ms. Frush stated that when notified of the complaint, Mr. Fleming flew to Arizona and met with Mr. Wand.

Ms. Frush stated that Mr. Fleming reviewed his company's policies and the company has made changes in the operation of the pharmacy and call centers.

President Van Hassel asked Mr. Fleming to address the issues.

Mr. Fleming stated that Humana has been operating the Mail Order Pharmacy in Arizona for 3 years. Mr. Fleming stated that policies and procedures are in place to protect the consumer.

Mr. Fleming stated that when issues occur they are reviewed quickly.

Mr. Fleming stated that they have now developed a corporate governance that would deal with issues that arise.

Mr. Fleming stated that they have just hired Mr. Keller and Mr. Greenwell.

Mr. Fleming stated that with the institution of the corporate governance they hope to find problems and respond to the problems quickly by instituting short term fixes while creating long term solutions. Mr. Fleming stated that they want to be compliant with all the laws.

Mr. Lerch indicated that he became the Pharmacist In Charge in mid-June. Mr. Lerch stated that the corporate office was made aware of the problems in July and August. Mr. Lerch stated that they now have peer review groups that meet on a weekly basis. Mr. Lerch stated that they now have policies and procedures that are universally applicable.

Mr. Greenwell stated that their goal in reviewing the incidences was to establish corporate quality governance. Mr. Greenwell stated that their goal was to be in compliance with all the state laws and supersede the regulations. Mr. Greenwell stated that they have developed peer review committees for the dispensing facilities and call centers. Mr. Greenwell stated that they have separate committees and the Pharmacist In Charge sits on both committees.

Mr. Keller stated that they did have processes in place. Mr. Keller stated with the incidences that occurred it caused them to review and update their policies and procedures. Mr. Keller stated that they had to make decisions concerning what would happen to associates that did not follow procedures.

Dr. Smidt asked how they would know if a customer service representative is handling the situation differently.

Mr. Greenwell stated that they record all phone calls. Mr. Greenwell stated that they are able to capture the call center representative's computer screen. Mr. Greenwell stated that they monitor 2% of all calls.

Mr. Dutcher asked Mr. Greenwell if the policies have been implemented. Mr. Greenwell stated that they have been implemented at all the call centers.

Mr. Dutcher asked Mr. Greenwell about the customer service representative providing the name of a therapeutic alternative.

Mr. Greenwell stated that the customer service representative merely types the name of the drug into the computer and a list of alternative medications appears that are covered by the insurance plan. Mr. Greenwell stated that a patient could go to their website and perform the same action and obtain a list of alternative medications. Mr. Greenwell stated that they have enclosed a copy of the screen capture for the Board Members to review.

Mr. Greenwell stated that the customer service representatives are required to tell the patient that they must contact their health care provider to authorize the change from one medication to another.

Mr. Wand stated that it is important to note that Humana provides both pharmacy services and pharmacy management benefit services. Mr. Wand stated that the Pharmacy management benefit portion of the business provides insurance information to the patients and is not addressed under pharmacy laws.

Mr. McAllister stated that this was not a consumer complaint and was generated internally. Mr. McAllister stated that the complaint got the attention of the company and problems were addressed and resolved.

Mr. Dutcher asked if the Phoenix site was the first mail order site for Humana. Mr. Fleming stated that this was their first mail order site. Mr. Fleming stated that they did operate staff model pharmacies and have 24 staff model pharmacies left in Florida.

Mr. Haiber asked how many call centers Humana operates. Mr. Keller stated that they have 5 call centers.

Mr. Haiber asked about the policies and procedures that were in place prior to these incidences.

Mr. Fleming stated that they had policies and procedures in place and employees were trained. Mr. Fleming stated that people make mistakes. Mr. Fleming stated that with the corporate governance in place they would be able to transcend all centers with reminders of activities that should not occur and how situations should be handled by the representatives.

**On motion by Dr. Smidt and Mr. McAllister**, the Board agreed to dismiss the complaint. . A roll call vote was taken. ( Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Haiber – nay, Dr. Sypherd –aye, Mr. McAllister – aye, Mr. Dutcher – nay, Dr. Berry – aye, and Mr. Van Hassel – aye)

**AGENDA ITEM 14 – Pharmacy Technician Trainee Requests for Approval to Reapply for Licensure**

President Van Hassel addressed this issue. Mr. Van Hassel stated that Mr. Wand has reviewed the requests. Mr. Van Hassel stated that the pharmacy technician trainees have received a letter stating that they may only reapply for licensure as a pharmacy technician trainee one time. Mr. Van Hassel stated that during the next two years the pharmacy technician trainee must take the PTCB test and become certified if they would like to continue to work as a pharmacy technician.

**On motion by Mr. Haiber and Mr. Dutcher**, the Board unanimously approved the requests of the Pharmacy Technician Trainees listed below to proceed with the reapplication process. The pharmacy technician trainee may reapply for an additional two years as a pharmacy technician trainee one time.

**Pharmacy Technician Trainees Approved to reapply for licensure as a Pharmacy Technician Trainee for an additional two years.**

1. Evelyn Schlatter
2. Christina Vicente
3. Joann Eng
4. Marcia Stevens
5. Patricia Mendoza
6. Tanisha Nicks- Graham
7. June Eden
8. Rosemarie Letendre
9. Moses Matet
10. Tammi Doores
11. Juana Trujillo
12. Sarah Knapfel
13. Stefan Zimmerman
14. Erica Velazquez
15. Kristy Herron
16. Shana Bozeman
17. Terra Bailey
18. Greg Measles
19. Wanda Mason
20. Mayyada Amer Abdel Rahman
21. Kristina Iovnelli
22. Fatima Aboozar
23. April Perce



- 24. Justin Ketchum**
- 25. Lynne Slater**
- 26. Helene Shorb**
- 27. Michael Evans**
- 28. Tyler Laird**
- 29. Diana Figueroa**
- 30. Vanessa Rider**
- 31. Walter Barbere**
- 32. Ofelia Hernandez**
- 33. Michelle Wilson**

## **AGENDA ITEM 15 – Proposed Rules and Substantive Policy Statement**

### **Drug Therapy Management**

Rules Writer Dean Wright opened the discussion by stating that the Board staff reviewed the Drug Therapy Management rules and would like to remove the requirement that the proposals be reviewed by a committee.

Mr. Wright stated that the committee is not required by statute. Mr. Wright stated that each pharmacist is monitored by their supervising physician and the additional review by the committee does not add any additional safety factors. Mr. Wright stated that it is difficult for committee members to meet. Mr. Wright stated that the Board Staff did serve on the committee and would continue to review the agreements.

**On motion by Dr. Berry and Mr. McAllister**, the Board unanimously authorized Mr. Wright to proceed with the rulemaking process.

### **Controlled Substances Prescription Monitoring Program**

Rules Writer Dean Wright stated that a hearing was held recently and there were several changes proposed.

Mr. Wright stated that he had received information that he would need to add gender to 502 because gender is a key factor in searching the database.

Mr. Wright stated that several changes were suggested. One change was to remove the requirement for the name of the drug when the NDC number will identify the drug.

Mr. Wright stated another change suggested was to list the method of payment as third party or cash.

Mr. Wright stated that it was suggested that the term Board be changed to Board's designee in 502A, 503A, 503C, and 505C.

**On motion by Mr. Dutcher and Dr. Berry**, the Board unanimously approved the changes suggested by Mr. Wright which would include: the payment method, the elimination of the name of the medicine, changing Board to Board designee, and adding the term gender. The Board unanimously approved Mr. Wright to proceed with the rulemaking process.

### **Unethical Practices Rule**

Rules Writer Dean Wright opened the discussion by stating that a hearing was held on the rules and several changes were suggested.

Mr. Dutcher stated that in reviewing the rule it would be very difficult for a pharmacist to know the doctor's standard of practice or how many prescriptions a practitioner issues in a day.

Mr. Wright stated that staff suggested that a new definition be written to define medical practitioner-patient relationship incorporating language from A.R.S. 32-1401.27(ss) instead of citing the statute.

Mr. Wright stated that NACDS suggested removing f2, f3, and f4. Mr. Wright stated that he believes that f4 should remain.

**On motion by Mr. Dutcher and Dr. Smidt**, the Board unanimously approved Mr. Wright to continue with the rulemaking process and make the following changes: Remove f2 and f3, keep f4, and add the new definition.

### **AGENDA ITEM 16 – Reconsideration of the Creation of a Long Term Care Task Force**

President Van Hassel asked Mr. Wand to address this topic.

Mr. Wand stated that when the Board did the Five Year Review of the rules there was a recommendation to create a task force to review the Long Term Care Rules.

Mr. Wand stated that he feels that hospice is not represented in the rules and feels that a task force should be created to review the rules.

Dr. Berry and Dr. Smidt agreed to serve on the task force.

Mr. Wand stated that he would present a list of task force members at the next meeting.

### **AGENDA ITEM 17 - Attendance at NABP Annual Meeting**

President Van Hassel asked Mr. Wand to address this issue.

Mr. Wand stated that the NABP Annual Meeting would be held from May 17-20, 2008 in Baltimore, Maryland. Mr. Wand stated that the Board could approve the reimbursement of travel and expenses for two participants. Mr. Wand stated that the Board could only reimburse two participants because of the state travel policy.

Mr. Wand and Mr. McAllister expressed interest in attending this meeting on behalf of the Board.

**On motion by Mr. Dutcher and Dr. Berry**, the Board unanimously approved the reimbursement of travel and expenses for two participants to attend the NABP Annual Meeting to be held in Baltimore, Maryland from May 17-20, 2008.

#### **AGENDA ITEM 18- Approval of Exams**

President Van Hassel asked Mr. Wand to address this topic.

Mr. Wand stated that the statutes require that the Board periodically approve the licensing exams. Mr. Wand stated that the exams are given by NABP or the PTCB.

**On motion by Mr. McAllister and Mr. Haiber**, the Board unanimously approved the NAPLEX, MPJE, FPGEEC, and PTCB exams as the licensing exams for the state of Arizona

#### **AGENDA ITEM 19 - Approval of ACPE-Approved Colleges and/or Schools of Pharmacy**

President Van Hassel asked Mr. Wand to address this topic.

Mr. Wand stated that the statutes require that the Board periodically review and approve the Colleges of Pharmacy.

**On motion by Dr. Berry and Mr. Dutcher**, the Board unanimously approved the Colleges and/or Schools of Pharmacy listed in the Board Book.

#### **AGENDA ITEM 23 – Review of FDA Warning Letters Sent to Compounding Pharmacies**

President Van Hassel asked Mr. Wand to address this topic.

Mr. Wand stated that the FDA has issued warning letters to compounding pharmacies that are compounding bio-identical hormone medications.

Mr. Wand stated that the FDA concerns are that the pharmacies are mislabeling the medications because of untrue claims. Mr. Wand stated that the FDA states that products are misbranded because they are using an unapproved drug in the compounding process. Mr. Wand stated that the FDA is also concerned about the safety and efficacy of the medications.

Mr. Van Hassel asked if the Board has conducted our own investigation.

Mr. Wand stated that the letter was just issued to the pharmacy and the Board has not conducted an investigation.

The Board Members asked if the FDA contacted the Board prior to their investigation. Mr. Wand stated that there is no partnership agreement.

The Board Members asked Mr. Wand if the FDA could be asked to meet with the Board or staff to discuss what they discovered at the pharmacies.

Mr. Wand stated that he will try and speak with an FDA representative and follow-up with the Board at the next meeting.

### **AGENDA ITEM 28 – Call to the Public**

President Van Hassel announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

No one came forth with any issues or concerns.

The meeting recessed at 3:15 P.M. The meeting will reconvene at 9:00 A.M. on January 24, 2008.

### **AGENDA ITEM 1 – Call to Order – January 24, 2008**

President Van Hassel convened the meeting at 9:00 A.M. and welcomed the audience to the meeting.

The following Board Members were present: President Tom Van Hassel, Vice President Zina Berry, Chuck Dutcher, Steven Haiber, Louanne Honeyestewa, Dennis McAllister, Paul Sypherd, and Ridge Smidt. The following staff members were present: Compliance Officers Rich Cieslinski, Larry Dick, Ed Hunter, Sandra Sutcliffe, and Dean Wright, Drug Inspector Heather Lathim, Deputy Director Cheryl Frush, Executive Director Hal Wand, and Assistant Attorney General Elizabeth Campbell.

### **AGENDA ITEM 8 – License Applications Requiring Board Review**

#### **#4 Adil Mirza**

**Mr. McAllister recused himself due to a conflict of interest.**

**Adil Mirza** appeared on his own behalf to request to proceed with reciprocity.

President Van Hassel opened the discussion by asking Mr. Mirza why he was appearing in front of the Board.

Mirza stated that he is requesting permission to proceed with reciprocity of his pharmacist license from Illinois.

Mr. Van Hassel asked Mr. Mirza why he was appearing in front of the Board.

Mr. Mirza stated that he was disciplined by the Illinois Board of Pharmacy prior to becoming a pharmacist.

Mr. Mirza stated that he provided the Board with the paperwork where he went to court and was found guilty of diversion of controlled substance.

Mr. Van Hassel asked when this diversion occurred. Mr. Mirza stated in November of 2000.

Mr. Mirza stated that he was put on probation and asked the Illinois Board to remove the probation because he followed all the directions of the Illinois Board and the courts.

Mr. Mirza stated that he was issued an Illinois pharmacist license.

Mr. Van Hassel asked Mr. Mirza if his license was current in Illinois. Mr. Mirza replied yes.

Mr. Van Hassel asked Mr. Mirza if he completed all the court requirements. Mr. Mirza stated that he did 30 days of sheriffs work alternative program and was on supervision for 2 years which has been completed. Mr. Mirza stated that he has also completed additional community service hours.

Mr. Van Hassel asked Mr. Mirza if he is currently working as a pharmacist in Illinois. Mr. Mirza stated that he was licensed on September 10, 2007 and began working at Wal-Mart. Mr. Mirza stated that he is currently employed by Osco.

Dr. Smidt asked Mr. Mirza about pleading not guilty to the conviction. Mr. Mirza stated that he did not do the things that he was accused of by the court. Mr. Mirza stated that he could not afford an attorney and he let it up to the state which said that they would find him guilty with supervision. Mr. Mirza stated that he did not appeal the verdict.

Dr. Smidt asked Mr. Mirza what he was accused of by the court. Mr. Mirza replied diversion.

Dr. Smidt asked Mr. Mirza why they convicted him if he did not do anything. Mr. Mirza stated that the pharmacist and two other technicians were also convicted.

Dr. Smidt asked Mr. Mirza if he had a state appointed attorney. Mr. Mirza stated that he had a state appointed attorney. Mr. Mirza stated that a state appointed attorney is not as good as a private attorney.

Mr. Mirza stated that he pled not guilty at first and then half way through he pled guilty because he did not want to prolong the case any longer.

Mr. Mirza stated that at first he was given an offer of guilty with a conviction. Mr. Mirza stated that the state appointed attorney told him that he could plead not guilty and they could see if the DA would give him supervision.

Ms. Campbell asked if he was convicted of the crime of theft. Mr. Mirza replied yes. Mr. Mirza stated that according to what the Judge explained to him if he was placed on supervision for 2 years then it would not be considered a conviction.

Ms. Campbell asked Mr. Mirza if he was placed in a diversion program. Mr. Mirza stated that he had to report every month to a social service worker and reported his sheriff's work program.

Ms. Campbell asked if it was a misdemeanor conviction. Mr. Mirza replied yes and he could ask for it to be expunged.

Ms. Campbell asked Mr. Mirza if he reported the conviction to the Illinois Board. Mr. Mirza stated that he also reported the conviction to the Florida Pharmacy School that he attended and the Florida Board of Pharmacy.

Mr. Mirza stated that he made a mistake.

Dr. Smidt asked Mr. Mirza what mistake he made. Mr. Mirza replied that he had to admit to what he did.

Dr. Smidt asked Mr. Mirza what he did. Mr. Mirza stated that he did nothing but he had to fulfill the court's conviction.

Mr. Mirza stated that it was a mistake that he was involved in something like that. Mr. Mirza stated that he knows that he did not divert anything. Mr. Mirza stated that in the eyes of the state he was guilty and he had to accept that fact.

Mr. Van Hassel read to Mr. Mirza that the pharmacy student was terminated by his employer after admitting to the diversion of controlled substances.

Mr. Mirza stated that the state attorney got that document thrown out because he did not divert drugs.

Mr. Van Hassel stated that the document stated that he admitted to the theft. Mr. Mirza stated that from what he remembers the document was thrown out.

Ms. Campbell asked Mr. Mirza about his comments to the Illinois Board of Professional Licensing. Mr. Mirza stated that after he was convicted in the state court he admitted to

the accusations in front of the Board. Mr. Mirza stated that he did not want to fight the Board and could not afford an attorney.

Dr. Smidt asked Mr. Mirza exactly what the Board said he did. Mr. Mirza stated that they said he took Vicodin because there was Vicodin missing from the pharmacy. Mr. Mirza stated that Vicodin had been missing for a while. Mr. Mirza stated that in 2000 he was attending pharmacy school here in Arizona and he could not afford to travel back to Illinois to take care of the problem. Mr. Mirza stated that he took a leave of absence from school to deal with the problem.

Dr. Smidt asked Mr. Mirza if he was attending school here and working in Illinois. Mr. Mirza stated that he would work in Illinois on his Christmas breaks and other breaks. Mr. Mirza stated that he worked a total of 4 days after starting pharmacy school. Mr. Mirza stated that he worked 4 days over Thanksgiving and this was when the problems occurred.

Dr. Smidt asked what the pharmacist was accused of. Mr. Mirza stated that he was also accused of diversion.

Mr. Mirza stated that he had worked at the pharmacy since 1997. Mr. Mirza stated that he was accepted to pharmacy school at Midwestern in 1999 and he came here in 2000 to start school. Mr. Mirza stated that the Vicodin had been missing since the summertime. Mr. Mirza stated that he was not in Illinois during the summer. Mr. Mirza stated that he last worked at the end of May. Mr. Mirza stated he took a leave of absence from school because he would not have been able to obtain an Arizona intern license because there was a pending case in Illinois. Mr. Mirza stated that Midwestern would not allow him to return to school.

Mr. Van Hassel asked what evidence Walgreens had that he diverted the drugs. Mr. Mirza stated that the pharmacist had accused the technicians of diverting the drugs.

Mr. Wand asked Mr. Mirza if Walgreens had a video tape of the diversion. Mr. Mirza replied no.

Mr. Dutcher asked Mr. Mirza how much restitution he paid to the employer. Mr. Mirza replied that he was required to pay \$400.00 restitution because the state said that he stole the Vicodin tablets.

Dr. Smidt asked how they determined the restitution. Mr. Mirza stated that the arresting officer could not go by an assumption and he arrested him for the theft of 25 tablets.

Ms. Campbell asked the Board if they could recess for 5 minutes.

Ms. Campbell stated that the Board Member that has recused himself has information pertinent to the case regarding a conversation he had with Mr. Mirza regarding the theft.

Ms. Campbell stated that the Board may want to direct the staff to obtain a copy of the loss prevention report.

Mr. McAllister came forth to discuss his conversation that he had with Mr. Mirza.

Mr. McAllister stated at the time of the case he was overseeing student interns at Midwestern University.

Mr. McAllister stated that he was called the Monday or Tuesday after the Thanksgiving weekend by the Walgreens District Manager in Chicago stating that one of his students had been caught stealing controlled substances. Mr. McAllister stated that the individual had gone home for the holidays. Mr. McAllister stated that the Walgreens District Manager had explained to him that Mr. Mirza was caught red-handed with the product. Mr. McAllister stated that he spoke with the attorney for the Illinois Board and he had the same information that Mr. Mirza had stolen the product.

Mr. McAllister stated that he called Mr. Mirza into his office and he denied everything. Mr. McAllister stated that they gave him the option of a recovery program. Mr. McAllister stated that he asked Mr. Mirza if he had a problem with drugs and he told him no that he was selling the drugs on the street.

Mr. McAllister stated that he was placed on suspension from Midwestern University and the case was then handled by the Office of Student Affairs.

Mr. Mirza stated that when he spoke to Mr. McAllister he was told by the state attorney not to say anything because the case was still pending.

Mr. Van Hassel asked if this was the state attorney. Mr. Mirza replied yes.

Mr. Van Hassel asked Mr. Mirza about the time frame, since he was arrested over the Thanksgiving weekend and spoke to Mr. McAllister the next week. Mr. Mirza stated that when he met with Mr. McAllister he told him that the case was pending. Mr. Mirza stated he met with Mr. McAllister several times after that and gave him a card from his attorney.

Mr. Mirza stated that he did not have anything on him when the officers arrested him.

Dr. Berry asked Mr. Mirza about his interview with Loss Prevention. Mr. Mirza stated that he did not have anything on him. Mr. Mirza stated that Loss Prevention was going on the fact that there were missing pills and he was one of the technicians that worked at the store.

Dr. Berry stated that she would recommend that the Board continue the case and obtain the Loss Prevention Report.

Mr. McAllister stated that there may be reports available at Midwestern University.



## **AGENDA ITEM 12 - Consideration of Complaints on Schedule “E” and Consideration of Consumer Complaint Committee Recommendations**

The Consumer Complaint Review Committee met prior to the Board Meeting to review 47 complaints. Dr. Berry, Ms. Honeyestewa, and Dr. Sypherd served as the review committee. Board Members were encouraged to discuss issues and were encouraged to ask questions.

Due to a conflict of interest, Mr. Haiber recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Schedule E, Complaint #3461.

Due to a conflict of interest, Dr. Berry recused herself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Schedule E, Complaint #3428, Complaint #3446, Complaint #3448, Complaint #3463, Complaint #3464, Complaint #3465, Complaint #3475, Complaint #3476, and Complaint #3481.

Due to a conflict of interest, Mr. McAllister recused himself from participating in the review, discussion, and proposed action concerning Agenda Item 12, Schedule E, Complaint #3474.

The following summary represents the discussion and final decisions of the Board for each complaint:

**Complaint #3425 - Consent Agreement offered to the Pharmacist with the following terms: \$1,000 fine, 10 CE Units on medication errors and/or counseling in addition to required CE Units, and 6 months probation that will end automatically at the end of 6 months if the requirements are met**

Discussion of complaint: The Complaint Review Committee had recommended a conference.

Mr. McAllister stated that he had issues with the counseling that was provided to the patient. Mr. McAllister stated that in this case the medications are used for two distinct purposes. Mr. McAllister stated that taking a high dose of Vesicare is an issue. Mr. McAllister stated that he would recommend a consent order for a fine and additional CE. Mr. McAllister stated that if counseling was performed this error would not have occurred.

**On motion by Mr. Dutcher and Dr. Sypherd**, the Board unanimously agreed to offer a consent agreement to the pharmacist with the following conditions: \$1,000 fine, 10 CE Units on medication errors and/or counseling in addition to required CE Units, and 6

months probation that will end automatically at the end of 6 months if the requirements are met.

Dr. Smidt stated that the Pharmacist In Charge is responsible for seeing that the rules are enforced in their pharmacy. Dr. Smidt stated that he feels that the Pharmacist In Charge is responsible for seeing that counseling is provided.

Dr. Smidt suggested that a letter could be sent to the Pharmacist In Charge.

Mr. Dutcher suggested that the Board might want to consider action against the permit holder.

Mr. McAllister stated in this case the pharmacist had a choice to make at the counter about counseling. Mr. McAllister stated that this company only has one pharmacist on duty at a time.

Dr. Berry stated if it was a consistent problem then she would have no problems with issuing a letter to the Pharmacist In Charge.

Dr. Berry stated that the Pharmacist In Charge is only paid a nominal amount above the staff pharmacist and to hold a Pharmacist In Charge responsible for errors made by other pharmacists would result in nobody wanting to be the Pharmacist In Charge.

**Complaint #3426 - Advisory Letter to the Pharmacist In Charge concerning Recordkeeping Issues**

Discussion of Complaint – **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to issue an advisory letter to the pharmacist in charge.

**Complaint #3427 - Consent Agreement for Revocation offered to the Technician. If not signed, the case will proceed to hearing.**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to offer the technician a consent agreement for revocation and if not signed the case would proceed to hearing.

**Complaint #3428 - Consent Agreement for Revocation offered to the Technician. If not signed, the case will proceed to hearing.**

Discussion of Complaint: **Dr. Berry recused herself due to a conflict of interest. On motion by Mr. Dutcher and Dr. Smidt**, the Board unanimously approved the Consumer Complaint Committee's recommendation to offer the technician a consent agreement for revocation and if not signed the case would proceed to hearing.

**Complaint #3429 - Consent Agreement for PAPA program or Controlled Substance Treatment Program offered to the Technician. If not signed, the case will proceed to hearing.**

Discussion of Complaint: **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to offer the technician a consent agreement for the PAPA program or Controlled Substance Treatment Program and if not signed the case would proceed to hearing.

Mr. Dutcher stated that he is concerned that a technician was able to divert that many tablets from a pharmacy and had questions as to what the pharmacist in charge was doing.

Mr. Haiber stated that a Pharmacist In Charge would not notice that a technician was taking 3 to 4 tablets daily.

Ms. Campbell stated at this time there is not a complaint against the Pharmacist In Charge. Ms. Campbell stated that the Board would need to open a complaint against the Pharmacist In Charge.

**Complaint #3430 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3432- Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3433 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3434 - Consent Agreement offered to the Permit Holder with the following terms: Surrender of License or Revocation with a fine of \$1,000 for each violation : 4 Violations  
Consent Agreement offered to the Pharmacist with the Following terms: Fine of \$2,000 for 2 violations**

Discussion of Complaint: **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to offer

consents to both the Permit Holder and Pharmacist with the fines and violations as stipulated by the review committee.

The Permit Holder was cited for distributing samples of compounded medications, non-pharmacist dispensing medications, not having a pharmacist in charge, and not notifying the Board of a change of a pharmacist in charge.

The Pharmacist was cited for not notifying the Board of his change of address or employment.

Dr. Smidt stated that he felt that it should be considered unethical for a pharmacist to walk off the job.

The Board Members decided to place job abandonment on a future agenda for discussion.

**Complaint #3435 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

Mr. Dutcher asked if a letter commending the pharmacist for protecting the public could be sent to the pharmacist.

Ms. Campbell stated that the Board could not issue a letter of that type because it is not one of the choices to close out a complaint.

**Complaint #3437 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3438 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3439 - Advisory Letter to the Pharmacist and Technician**

Discussion of Complaint – **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to issue an advisory letter to the Pharmacist and Technician.

**Complaint #3440- Consent Agreement for PAPA program or Controlled Substance Treatment Program offered to the Technician. If not signed, the case will proceed to hearing.**

Discussion of Complaint: **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to offer the technician a consent agreement for the PAPA program or Controlled Substance Treatment Program and if not signed the case would proceed to hearing.

**Complaint #3444 - Consent Agreement for PAPA program or Controlled Substance Treatment Program offered to the Technician. If not signed, the case will proceed to hearing.**

Discussion of Complaint: **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to offer the technician a consent agreement for the PAPA program or Controlled Substance Treatment Program and if not signed the case would proceed to hearing.

**Complaint #3445 - Consent Agreement for PAPA program or Controlled Substance Treatment Program offered to the Technician. If not signed, the case will proceed to hearing.**

Discussion of Complaint: **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to offer the technician a consent agreement for the PAPA program or Controlled Substance Treatment Program and if not signed the case would proceed to hearing.

**Complaint #3446- Conference for Both Pharmacists and Technician**

Discussion of Complaint : **Dr. Berry recused herself due to a conflict of interest. On motion by Mr. Dutcher and Dr. Smidt**, the Board unanimously approved the Consumer Complaint Committee's recommendation to ask both pharmacists and the technician involved in the incident to appear for a conference.

**Complaint #3448- Dismiss**

Discussion of Complaint : **Dr. Berry recused herself due to a conflict of interest. On motion by Mr. Dutcher and Dr. Smidt**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3449 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3450 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3451 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3452 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3453 - Conference for Pharmacist and Technician**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to ask the pharmacist and technician to appear for a conference.

**Complaint #3454 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3456- Conference for Pharmacist and Technician**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to ask the pharmacist and technician to appear for a conference.

Mr. McAllister asked if the technician would be asked to appear since her license was revoked earlier.

Ms. Campbell stated that the technician should be asked to appear since she may have useful information about the complaint.

Ms. Campbell stated that the revocation does not become effective until 35 days after the order is sent or the technician may decide to appeal the decision.

Ms. Campbell stated that the technician could be asked to appear because the complaint occurred before her license expired or was terminated.

**Complaint #3457 - Conference for Pharmacist and Technician**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to ask the pharmacist and technician to appear for a conference.

**Complaint #3459 - Consent Agreement for PAPA program or Controlled Substance Treatment Program offered to the Technician. If not signed, the case will proceed to hearing.**

Discussion of Complaint: **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to offer the technician a consent agreement for the PAPA program or Controlled Substance Treatment Program and if not signed the case would proceed to hearing.

**Complaint #3460 - Consent Agreement for PAPA program or Controlled Substance Treatment Program offered to the Technician. If not signed, the case will proceed to hearing.**

Discussion of Complaint: **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to offer the technician a consent agreement for the PAPA program or Controlled Substance Treatment Program and if not signed the case would proceed to hearing.

**Complaint #3461 - Advisory Letter to the Pharmacist**

Discussion of Complaint : **Mr. Haiber recused himself due to a conflict of interest. On motion by Mr. McAllister and Mr. Sypherd**, the Board unanimously approved the Consumer Complaint Committee's recommendation to issue an advisory letter to the Pharmacist .

**Complaint #3462 - Tabled**

**Complaint #3463- Dismiss**

Discussion of Complaint : **Dr. Berry recused herself due to a conflict of interest. On motion by Mr. Dutcher and Dr. Smidt**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3464- Conference for Pharmacist and Pharmacist in Charge After opening a complaint against the Pharmacist in Charge**

Discussion of Complaint : **Dr. Berry recused herself due to a conflict of interest.**

The Consumer Complaint Committee had recommended sending an Advisory Letter to the Pharmacist.

Dr. Smidt stated that there seemed to be a question if counseling occurred. Dr. Smidt stated that a patient should be counseled prior to starting Lovenox injections.

Dr. Smidt asked that a complaint be opened against the Pharmacist in Charge concerning counseling and ask the Pharmacist in Charge to respond and appear at the Conference.

**On motion by Mr. Dutcher and Dr. Smidt**, the Board unanimously agreed to ask the Pharmacist and Pharmacist in Charge to appear for a conference. The Board unanimously agreed to open a complaint against the Pharmacist in Charge and ask her to respond to the complaint prior to the Board meeting.

**Complaint #3465 - Dismiss**

Discussion of Complaint : **Dr. Berry recused herself due to a conflict of interest.**  
**On motion by Mr. Dutcher and Dr. Smidt**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3466 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3467 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3468 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3469 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

Mr. Dutcher asked why the complaint was being dismissed.



Mr. Van Hassel explained that products for IV use can be used in compounding. Mr. Van Hassel stated that the issue was that the pharmacist should have communicated with the patient about the taste of the medication. Mr. Wand was asked to call and speak with the pharmacist.

**Complaint #3470 - Advisory Letter to the Pharmacist with a copy sent to the Pharmacy District Manager**

Discussion of Complaint – **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to issue an advisory letter to the Pharmacist with a copy sent to the Pharmacy District Manager.

**Complaint #3472 - Dismiss**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3474- Consent Agreement offered to the Pharmacist with the following terms: \$1,000 fine, 10 CE Units on medication errors and/or counseling in addition to required CE Units, and 6 months probation that will end automatically at the end of 6 months if the requirements are met**

**Open a complaint against the Pharmacist In Charge**

Discussion of Complaint : **Mr. McAllister recused himself due to a conflict of interest.**

Mr. McAllister asked if he could speak as a witness. President Van Hassel granted his request to speak as a witness.

Mr. McAllister stated that he spoke with the mother at the hospital. He stated that she told him that she learned of the error when she was called by the pharmacist. Mr. McAllister stated that she told him that her son would perk up on the weekends when he was not receiving the methylphenidate.

Mr. McAllister stated that the mother found out about the error because she was called after hours by one of the pharmacists. The mother stated that the pharmacist told her an error was discovered in the inventory.

Mr. Van Hassel asked Mr. McAllister how he received this information.

Mr. McAllister stated that the hospital pharmacy was asked to verify the tablet and they determined that the tablet was not methylphenidate 10 mg but was methadone 10 mg. Mr. McAllister stated that he talked to the mother in the emergency room.

**On motion by Mr. Dutcher and Dr. Smidt**, the Board unanimously agreed to offer a consent agreement to the pharmacist with the following conditions: \$1,000 fine, 10 CE Units on medication errors and/or counseling in addition to required CE Units, and 6 months probation that will end automatically at the end of 6 months if the requirements are met.

**On motion by Mr. Dutcher and Dr. Smidt** the Board unanimously agreed to open a complaint against the Pharmacist In Charge regarding professional conduct.

**Complaint #3475- Dismiss**

Discussion of Complaint : **Dr. Berry recused herself due to a conflict of interest.**

**On motion by Mr. Dutcher and Dr. Smidt**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3476 - Consent Agreement for Revocation offered to the Technician.  
If not signed, the case will proceed to hearing.**

Discussion of Complaint: **Dr. Berry recused herself due to a conflict of interest.**

**On motion by Mr. Dutcher and Dr. Smidt**, the Board unanimously approved the Consumer Complaint Committee's recommendation to offer the technician a consent agreement for revocation and if not signed the case would proceed to hearing.

**Complaint #3477- Conference for Pharmacist**

Discussion of Complaint : **Dr. Berry recused herself due to a conflict of interest.**

**On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to ask the pharmacist and technician to appear for a conference.

**Complaint #3478 - Consent Agreement for Revocation offered to the Pharmacist  
If not signed, the case will proceed to hearing.**

Discussion of Complaint: **On motion by Mr. Dutcher and Mr. Haiber** the Board unanimously approved the Consumer Complaint Committee's recommendation to offer the pharmacist a consent agreement for revocation and if not signed the case would proceed to hearing.

Board Members expressed concern that the Pharmacist violated his PAPA contract and may still be working.

Ms. Campbell stated that the only option the Board would have if they felt the pharmacist was a danger to the public would be to summarily suspend his license and hold a hearing in 10 days.

The pharmacist currently was not working and the board staff will try to find out if the pharmacist is currently employed and then the Board can decide if they would like to action against the pharmacist via an emergency telephonic meeting.

**Complaint #3479 - Consent Agreement for Revocation offered to the Pharmacist  
If not signed, the case will proceed to hearing.**

Discussion of Complaint: **On motion by Mr. Dutcher and Mr. Haiber** the Board unanimously approved the Consumer Complaint Committee's recommendation to offer the pharmacist a consent agreement for revocation and if not signed the case would proceed to hearing.

**Complaint #3480 - Conference for Pharmacist and Technician**

Discussion of Complaint : **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to ask the pharmacist and technician to appear for a conference.

**Complaint #3481 - Dismiss**

Discussion of Complaint : **Dr. Berry recused herself due to a conflict of interest.**  
**On motion by Mr. Dutcher and Dr. Smidt**, the Board unanimously approved the Consumer Complaint Committee's recommendation to dismiss the complaint.

**Complaint #3482 - Consent Agreement for PAPA program offered to the Pharmacist with credit to time in treatment. If not signed, the case will proceed to hearing.**

Discussion of Complaint: **On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously approved the Consumer Complaint Committee's recommendation to offer the pharmacist a consent agreement for the PAPA program with credit for time in treatment and if not signed the case will proceed to hearing.

**AGENDA ITEM 13 – Consent Agreements**

President Van Hassel asked Board Members if there were any questions or discussions concerning the consent agreements. Executive Director Hal Wand indicated that the consent agreements have been reviewed and approved by the Attorney General's Office and have been signed.

**On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously agreed to accept the following consent agreements as presented in the meeting book and signed by the respondents. The consent agreements are listed below. A roll call vote was taken. ( Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Haiber – aye, Dr. Sypherd –aye, Mr. McAllister – aye, Mr. Dutcher – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

Elizabeth Hogan	-	08-0009-PHR
Robert Wilcox	-	08-0016-PHR
Brandon Kendrick	-	08-0004-PHR

#### **AGENDA ITEM 20 - Approval of Delegation to Executive Director**

President Van Hassel asked Mr. Wand to address this topic. Mr. Wand stated that Board can delegate authority to the Executive Director to order tests and exams listed in A.R.S.§ 32-1927 (F), A.R.S.§ 32-1927.01 (F), and A.R.S.§ 32-1927.02 (E).

**On motion by Dr. Smidt and Dr. Berry**, the Board unanimously agreed to select Mr. Wand as the Executive Director and delegate the authority to the Executive Director to order tests and exams listed in A.R.S.§ 32-1927 (F), A.R.S.§ 32-1927.01 (F), and A.R.S.§ 32-1927.02 (E).

#### **AGENDA ITEM 21 – Review of Complaint and Subsequent Evaluation Concerning Pharmacist Peter Massrock**

President Van Hassel asked Mr. Wand to address this agenda item.

Mr. Wand stated that at the last Board Meeting the Board requested that this complaint be referred to the Executive Director to order evaluations.

Mr. Wand stated that the pharmacist met with Dr. Pickens who is one of the counselors with the PAPA program. Dr. Pickens stated that he felt that the pharmacist did not have any addiction issues at this time.

On motion by Dr. Smidt and Mr. McAllister, the Board unanimously agreed to dismiss the complaint against Pharmacist Peter Massrock.

#### **AGENDA ITEM 22 - Review of Board Meeting Schedule**

President Van Hassel opened the discussion by stating that the Board Meeting scheduled for September 2008 conflicts with the District 8 NABP meeting.

The Board agreed to move the meeting to September 10 and 11, 2008.

**AGENDA ITEM 24 – Low Cost Pharmacy – Case No. 07-0049-PHB – Discussion and Possible Action Regarding the Administrative Law Judge’s Decision and Recommended Order**

President Van Hassel opened the discussion by stating that this is the time for the Board to discuss and take possible action regarding the Administrative Law Judge’s Decision and recommended order.

Ms. Elizabeth Campbell, Assistant Attorney General for the State was present.

Mr. John Rao, Permit Holder for Low Cost Pharmacy, was present. Adam Palmer, Legal Counsel for Low Cost Pharmacy was present.

Mr. Christopher Munns was present as Solicitor General.

President Van Hassel asked Ms. Campbell if she would like to address the Board on behalf of the state.

Ms. Campbell stated this matter with Low Cost Pharmacy proceeded to hearing in front of the Office of Administrative Hearings. Following the hearing and subsequent written closing arguments presented by the parties, the Administrative Law Judge (ALJ) issued a recommended decision and order. Following that recommended decision and order, the State filed a State’s position on the Administrative Law Judge’s decision and recommended order requesting that the Findings of Fact and Conclusions of Law with the exception that the ALJ had noted that the Low Cost license had been revoked in a previous case when the revocation had been stayed. Ms. Campbell stated that the changes in the State’s position make that clear that the State requests that the ALJ’s use of revocation be changed to discipline. Ms. Campbell stated that in addition in the Finding of Facts, #3, Line 27, the State requests that misbranding in violation should be changed to a violation to make it more consistent with the Board’s previous case against Low Cost. Ms. Campbell stated that the State is also requesting that the costs of the Formal Hearing be charged to respondent pursuant to A.R.S. § 32-1927.02 (C).

President Van Hassel asked Mr. Palmer if he would like to address the Board.

Mr. Palmer stated that the Administrative Law Judge’s decision, which was issued on November 28, 2007, is both legally and factually flawed. Mr. Palmer stated that the Assistant Attorney General has submitted a brief that does not show all the errors. Mr. Palmer stated that the decision by the ALJ to revoke the license of Low Cost was based upon the Court’s finding that this Board in a prior action had revoked the license of Low Cost. Mr. Palmer stated that the matter is on appeal at the appellate court level. Mr. Palmer stated that in reality Low Cost’s license was never revoked. Mr. Palmer stated that the Appellate Court has thrown out two of the findings that the Board made in respect to misbranding. Mr. Palmer stated that the ALJ further found that this prior revocation was an aggravating factor that she felt was appropriate to order a sanction of revocation. Mr. Palmer stated that this is the harshest sanction that can be taken. Mr.

Palmer stated that since there was no previous revocation Low Cost feels that sanction of revocation is extremely harsh.

Mr. Palmer stated that the current complaint brought against Low Cost by this Board is limited to the fact that they failed to give notice to the Board of an action that occurred in Missouri. Mr. Palmer stated that the Board did not bring a complaint stating that the activities performed by Low Cost in Missouri had they been performed in Arizona would have been below the standard of care of our rules and regulations and would have constituted an improper and unprofessional act. Mr. Palmer stated that the Board simply limited the complaint to the failure to give notice of an out of state disciplinary action. Mr. Palmer stated that the penalty of revocation for such a minor infraction of an innocent mistake does not warrant revocation.

Mr. Palmer stated that the complexity of the Missouri case is vast. Mr. Palmer stated that they believe that there was a voluntary surrender in Missouri due to the requirements that were placed upon them. Mr. Palmer stated that Missouri would not accept a voluntary surrender and they had to proceed to formal proceedings. Mr. Palmer stated that if Mr. Rao knew that he was required to give the Board notice of the Missouri action he would have notified the Board. Mr. Palmer stated that it was an innocent mistake.

Mr. Palmer stated that the purpose of the Board is to be objective and not vindictive. Mr. Palmer stated that Low Cost has appeared before the Board on a prior occasion that the Appellate Court has found that the stance Low Cost has taken is valid and threw out two of the three findings that the Board has made against Low Cost. Mr. Palmer stated that he is sure the Appellate Court will throw out the final finding. Mr. Palmer stated that the Appellate Court has found that Low Cost has complied with the law. Mr. Palmer stated that the Board has made a mistake in respect to their findings that Low Cost has violated the law.

Ms. Campbell objected to the extent the Board is not here to relitigate the case that is before the Court of Appeals. Ms. Campbell stated that the Board is here today to review the fact that the respondent did not report the disciplinary action taken against them in Missouri.

Mr. Palmer stated that he is referencing the previous law case because of the Findings of Fact.

Mr. Palmer stated that Low Cost is requesting that the Board not revoke Low Cost's license for an innocent mistake. Mr. Palmer stated that the pharmacy has been in business since 2002 and have not had any customer complaints. Mr. Palmer stated that the Board knows that they do not dispense any medications to Arizona residents and the purpose of this Board is to protect the citizens of Arizona and they are protected because Low Cost does not dispense any medications in Arizona.

Mr. Palmer stated that the severe sanction of revocation is inappropriate in light of an innocent mistake by Low Cost to notify Arizona of an out of state sanction.

Mr. Munns informed the Board that this is a legal proceeding today and not a time for taking evidence. Mr. Munns stated that the only person that can present legal argument is the lawyer. Mr. Munns stated that Mr. Rao is not a lawyer and does not represent Low Cost Pharmacy and should not address the Board.

Mr. Palmer stated that the Board had allowed Mr. Rao to address the Board previously.

Mr. Munns stated that he is the Board's advisor. Mr. Munns stated that the hearing was the time to present evidence. Mr. Munns stated that today is an argument about the ALJ's decision. Mr. Munns stated that the Board can only look at evidence on record. Mr. Munns stated that to allow Mr. Rao to present evidence today would be an authorized practice of law.

President Van Hassel told Mr. Rao that he could not speak at this time and could make any comments he would like at the Call to the Public.

Ms. Campbell stated that to the extent that Mr. Palmer stated that the ALJ's decision was based upon the ALJ's statement that Low Cost's license had been previously revoked is incorrect. Ms. Campbell stated that the Conclusions of Law in this matter is that Low Cost's license was disciplined in Missouri which is a violation of Board statute and in further violation of Board Statute Low Cost failed to report the disciplinary action. Ms. Campbell stated that ALJ is correct that the previous discipline by the Board should be considered as an aggravating factor. Ms. Campbell stated that to the extent that Mr. Palmer continuously refers to the Missouri action as a surrender confuses her because the Consent Agreement states in bold letters that it is a revocation. Ms. Campbell stated that Low Cost Pharmacy as a permittee is required to know the laws of the Board and the laws of this Board include the requirement that if you are disciplined in another jurisdiction you must report the discipline to the Board. Ms. Campbell stated that Low Cost failed to report the discipline.

Mr. Munns instructed the Board how to proceed legally.

Mr. Dutcher stated that in Paragraph 5 of the Findings of Fact there appears to be a typographical error. Mr. Dutcher stated that in late February of 2007 the Board's Executive Director learned that in October of 2007 Low Cost's Missouri Permit was revoked. Mr. Dutcher stated that he believes that should be October 2006.

Mr. Munns stated that they can address the error in their motion.

**On motion by Dr. Smidt and Mr. McAllister**, the Board unanimously accepted the Findings of Fact #1 through #30 for Case 07-0049-PHB with the acceptance of the changes proposed by the State. Also, the Board would like to acknowledge the typographical error in the Findings of Fact #5.

A roll call vote was taken.

( Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Haiber – aye, Dr. Sypherd –aye, Mr. McAllister – aye, Mr. Dutcher – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

Mr. Munns informed the Board Members that they should also include the section called Applicable Law in their motion.

**On motion by Mr. Dutcher and Mr. McAllister**, the Board unanimously agreed to accept the States recommended language changes in the Conclusion of Law and Applicable Law and adopt the remainder of the ALJ's Conclusion of Law and Applicable law.

A roll call vote was taken.

( Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Haiber – aye, Dr. Sypherd –aye, Mr. McAllister – aye, Mr. Dutcher – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

**On motion by Mr. McAllister and Dr. Smidt**, the Board unanimously agreed to accept the order of the Administrative Law Judge issued on November 28, 2007 for Case 07-0049-PHB and in addition pursuant to A.R.S. § 32-1927.02 (C) that the cost of the Hearing be charged to the respondent.

A roll call vote was taken.

( Dr. Smidt – aye, Ms. Honeyestewa –aye, Mr. Haiber – aye, Dr. Sypherd –aye, Mr. McAllister – aye, Mr. Dutcher – aye, Dr. Berry – aye, and Mr. Van Hassel – aye)

Mr. Munns stated that the matter is concluded and the order will be prepared.

## **AGENDA ITEM 25 – Hearings/Motions to Deem**

**Mr. Haiber was recused due to a conflict of interest for Case 2 and Case 3.**

### **#1 Jonathan Ronzio**

President Van Hassel opened the discussion by stating this is the time and place for consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.

President Van Hassel asked if Mr. Ronzio was present. Mr. Ronzio was not present.

President Van Hassel asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

**On motion by Dr. Berry and Mr. Haiber**, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted.

A roll call vote was taken. (Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Ms. Honeyestewa – aye , Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)



President Van Hassel asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate.

President Van Hassel stated that the Board would now deliberate on the appropriate discipline to be imposed.

**On motion by Dr. Berry and Dr. Smidt**, the Board unanimously agreed to revoke Pharmacy Technician License 11697 issued to Jonathan Ronzio. A roll call vote was taken. (Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Ms. Honeyestewa – aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

## **#2 Jose Perez**

President Van Hassel opened the discussion by stating this is the time and place for consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.

President Van Hassel asked if Mr. Perez was present. Mr. Perez was not present.

President Van Hassel asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

**On motion by Dr. Smidt and Mr. Dutcher**, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted.

President Van Hassel asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate.

President Van Hassel stated that the Board would now deliberate on the appropriate discipline to be imposed.

**On motion by Mr. McAllister and Dr. Berry**, the Board unanimously agreed to revoke Pharmacy Technician License 9642 issued to Jose Perez. A roll call vote was taken. (Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Ms. Honeyestewa – aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

### **#3 Julia Dinovo**

President Van Hassel opened the discussion by stating this is the time and place for consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.

President Van Hassel asked if Ms. Dinovo was present. Ms. Dinovo was not present.

President Van Hassel asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

**On motion by Dr. Berry and Mr. Dutcher**, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted.

President Van Hassel asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate.

President Van Hassel stated that the Board would now deliberate on the appropriate discipline to be imposed.

**On motion by Dr. Berry and Dr. Sypherd**, the Board unanimously agreed to revoke Pharmacy Technician License 7753 issued to Julia Dinovo. A roll call vote was taken. (Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Ms. Honeyestewa – aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

### **#4 Sophia Garcia**

President Van Hassel opened the discussion by stating this is the time and place for consideration of the State's Motion to Deem Allegations of the Complaint and Notice of Hearing Admitted. The matter was set for formal hearing at this date and time. The Attorney for the State has filed the current motion before us today.

President Van Hassel asked if Ms. Garcia was present. Ms. Garcia was not present.

President Van Hassel asked if the Board would like to make a Motion granting or denying the State's motion to Deem Allegations Admitted.

**On motion by Mr. Dutcher and Mr. Haiber**, the Board unanimously agreed to grant the State's Motion to Deem Allegations Admitted.

President Van Hassel asked if the Assistant Attorney General has any comments or recommendations as to the appropriate discipline to be imposed.

Ms. Campbell stated that she does not have a recommendation and the Board can impose any discipline that they feel appropriate.

President Van Hassel stated that the Board would now deliberate on the appropriate discipline to be imposed.

**On motion by Mr. Haiber and Mr. Dutcher**, the Board unanimously agreed to revoke Pharmacy Technician License 3053 issued to Sophia Garcia. A roll call vote was taken. (Mr. McAllister - aye, Dr. Smidt – aye, Mr. Dutcher –aye, Ms. Honeyestewa – aye, Mr. Haiber –aye, Dr. Sypherd – aye, Dr. Berry – aye, and President Van Hassel – aye.)

### **AGENDA ITEM 26 – Review of Continuing Education – Possible Rule Revision**

President Van Hassel asked Mr. Wand to address this topic.

Mr. Wand stated that ACPE has changed the CE designation. They have added a “P” or a “T” in the designation code. Mr. Wand stated that the “P” is approved for Pharmacists and the “T” is approved for Technicians.

Mr. McAllister stated that in NABP discussions they were worried about technicians trying to take therapeutic CE lessons intended for pharmacists.

Dr. Berry asked if the Board could change any of the CE requirements that currently exist.

Dr. Berry stated that the law CE requirement could be eliminated and replaced with CE on medication errors or the law CE requirement could stay and add required CE on medication errors.

Mr. Wand stated that some states require live CE and that is another CE requirement that the Board could review.

Mr. McAllister stated that he feels the law CE should remain and let the remaining hours be the choice of the pharmacist. Mr. McAllister stated that he does not feel the Board should require Live CE because many pharmacists can not attend Live CE because of work schedules.

Mr. McAllister suggested in the short term that the Board continue to accept any ACPE approved CE.

Dr. Smidt stated that he felt that a pharmacist may benefit from reviewing Technician CE lessons.

Mr. McAllister stated that the move is to apply CE to your job and improve your practice setting.

Dr. Smidt suggested that the Board may want to have groupings of CE for disciplinary actions and then the individuals can select the lessons from the compiled list.

The Board members decided to research the topic and see what other states are doing in reference to the designation change. The Board stated that they would discuss the topic again after researching the topic.

#### **AGENDA ITEM 27 - Low Cost Pharmacy – Case 1 CA-CV 070547 – Update on Action for Case Pending in the Court of Appeals**

President Van Hassel asked Assistant Attorney General Elizabeth Campbell to address this topic.

Ms. Campbell stated that the first case against Low Cost Pharmacy for filling prescriptions based on internet questionnaires is currently in the Court of Appeals. Ms. Campbell stated that it may be some time before a decision is reached on the case.

#### **AGENDA ITEM 28 – Call to the Public**

President Van Hassel announced that interested parties have the opportunity at this time to address issues of concern to the Board; however the Board may not discuss or resolve any issues because the issues were not posted on the meeting agenda.

Mr. Morris came forth to express his concerns about changes to the CE requirements. Mr. Morris stated that he felt that the Board should keep the requirement for law CE and continue to offer law CE for attendance at the meeting.

#### **AGENDA ITEM 29 – Discussion of Items to be place on a future meeting agenda**

President Van Hassel asked if there were any items to be placed on a future meeting agenda.

Mr. Wand stated that the Long Term Care Task Force would be placed on a future agenda for discussion.

#### **AGENDA ITEM 30 – Adjournment**

There being no further business to come before the Board, **on motion by Dr. Sypherd and Mr. Dutcher**, the Board unanimously agreed to adjourn the meeting at 12:05 P.M..